

JON KYL
ARIZONA

730 HART SENATE OFFICE BUILDING
(202) 224-4521

COMMITTEE ON FINANCE

COMMITTEE ON THE JUDICIARY

REPUBLICAN WHIP



0000095501

United States Senate

WASHINGTON, DC 20510-0304

STATE OFFICES:

2200 EAST CAMELBACK ROAD
SUITE 120
PHOENIX, AZ 85016
(802) 840-1891

6840 NORTH ORACLE ROAD
SUITE 150
TUCSON, AZ 85704
(520) 575-8633

ORIGINAL

April 13, 2009

Mr. Kyle Schmierer
15651 N, 27th Street, Ste. 218
Phoenix, Arizona 85032

Dear Mr. Schmierer:

Thank you for contacting my office with your concerns.

While I would like to help you, the matter you raise is not of a federal nature. Therefore, I have taken the liberty of forwarding your correspondence to the Arizona Corporation Commission so that you might be assisted. The address and telephone number are 1200 West Washington, Phoenix 85007 and 602-542-2237.

Please do not hesitate to contact me if you have a problem with any federal agency.

Sincerely,

JON KYL
United States Senator

JK:dr

Docket No. S-20651A-09-0029
Kyle Schmierer

RECEIVED

2009 APR 16 P 3:40

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

APR 16 2009

DOCKETED BY

MAR 23 2009

US Senator Jon Kyl
2200 East Camelback, Suite 120
Phoenix, Arizona 85016-3455

Senator Jon Kyl,

I know you are very busy working on many serious problems the nation is facing. Yet I ask you to please read my story. It is a story with very direct implications to the economy, to the recovery of America, and to the very spirit and promise that is America. I am sure that you will see that my challenge is faced by many hundreds of thousands entrepreneurs and small business people.

The current SEC laws and even more complex array of state securities laws make it nearly impossible for anyone but the very wealthy to raise capital and get a new business financed legally. Also, these rules and especially the interpretation of the law by the Arizona Corporation Commission illegally restricts the 1st Amendment rights of freedom of speech by American entrepreneurs. I feel heart broken that the promise of America of fairness and equal opportunity has been betrayed. This situation calls out for immediate action.

I am a social entrepreneur (to use market principles and businesses to positively help the world). After a post graduate film program at NYU and working and learning for many years in Hollywood, I have developed several projects and an innovative business model to create films that not only entertain but also inspire and create debate. Movies can have meaning, morals and marketability – passion, purpose and profits. Working with honesty and morals is not really a good match with the Hollywood Studios, so I must seek private investors to secure financing as many entrepreneurs of any business must do. I quickly discovered that to raise money or even seek it seems to require you to already be wealthy -wealthy enough to pay for huge legal fees, filing costs, etc. I then found a provision supposedly designed to allow entrepreneurs to seek investors with less money and fewer lawyers. Yet, as I have tried to follow this law, I have found it cumbersome, unduly restrictive, and not very helpful.

I have been extremely careful and have taken great effort to follow my reading, understanding, and knowledge of securities law and specifically Regulation D of SEC rules. Even after my best efforts, the Arizona Corporation Commission claims I have violated their interpretation of the law and treats me as a criminal. They even refuse to tell me precisely what I have done wrong and seem unwilling to help me comply. They are determined to fine me and punish me rather than to help me. I felt and still feel I did nothing wrong and am doing nothing illegal or immoral. I am merely working to raise money for a valid, good and honest business.

While their reading of the law may differ from mine, I never intended to commit fraud nor do any harm to anyone. Yet that seems not to matter. I am being heavily fined and threatened with felony charges by the Arizona Corporation Commission for not filing their paperwork and for exercising my 1st Amendment rights of freedom of speech by merely writing about my projects and communicating with potential investors on the Internet and emails. They even claim sending my business plan to a potential investor that requested it was illegal. I have never done any advertising or in my opinion any general solicitations, so I could use provision in Regulation D of the SEC code. The federal code claims I do not have to register until 15 days after the first sale. Yet the Arizona Corporation Commission claims the state law has different standards. Even the supposedly more small business friendly federal standards of Regulation D are complicated and onerous enough without 50 other state laws. I agree that potential investors need help against fraud and abuse. People that steal and commit fraud like Maddoff should be punished, but the laws

as they are now are blocking economic growth, blocking job creation, blocking innovation, blocking the dreams of entrepreneurs, blocking opportunities for investors, blocking government revenues for governments via taxes, and blocking the American dream!

Why are all entrepreneurs assumed to be criminals? Why are general stock offering and the ability to raise financing relegated to only the richest people instead of the best ideas or entrepreneurs? Why is the government blocking my first Amendment rights to talk about or write about my projects? Especially when new small businesses create the most jobs and bring innovation to society, why is the government blocking legitimate good businesses from being developed? This is what I would expect from former communist Soviet Union or China, not America.

The state and federal government should help entrepreneurs like me who create jobs and help the economy and help society thru our small businesses instead of making it so difficult and expensive to know and understand the copious and confusing array of laws inhibiting investments in new businesses. The rules are unnecessarily confusing, complicated, and expensive. Only wealthy people are able to afford the lawyers required to do a general offering of securities. Banks do not loan to new businesses, and now few are making any loans of any kind. The only option for average lower and middle class Americans is Regulation D. This puts lower and middle class Americans at a further disadvantage because it is difficult to find, meet, or otherwise encounter accredited investors if you are not in that upper class of wealthy accredited investors. Especially in these economic times the government should help the small business people and entrepreneurs striving for the American dream and creating much needed jobs and government revenue instead of persecuting me and trying to destroy my life and dreams. This persecution and interference in the free speech and moral business activity of an entrepreneur by my own government is unjust and shameful. It better serves the country to help small business people and entrepreneurs then to bailout the companies and people that caused this current global economic crisis.

As it stands now the overly complex and confusing array of Federal and state laws seem designed to intentionally prevent lower and middle class Americans from getting equal access to capital and investors. Thus the marketplace is not at all free or fair. The best ideas and best people must have access to investors not only the rich and well connected. This is un-American and an outrage. Even when an honest entrepreneur like me makes great effort to comply with the dizzying array of rules, I find my self having to waste a great deal of time and money to defend myself from the very government that should be helping. At the very least the government should get out of the way instead of destroying my life and dreams. I am not asking for a hand out. I merely ask for a level and fair playing field so our market based system has a chance to work.

My father is a farmer and my mother just retired from teaching special needs kids. I was raised with an ethic of hard work, honesty and integrity. I believed if you had a great idea or a product, that if you worked hard, got educated and applied yourself you could fulfill your dreams. Yet I have found that all these securities laws and how they are enforced makes a mockery of America. They make a mockery of free enterprise. These securities laws must change to improve the economy. The government must change so our country can live up to its promise to its citizens. These changes will help spur new growth of innovative new businesses and entrepreneurship that will greatly help the economy and strengthen the future of America. And it can help do all this with no new taxes. Making much needed reforms to these securities laws need not cost a lot of money nor take a long time. The impact of making these laws truly fair and simple can be swift and powerful. Entrepreneurship must be available to all. It should not cost thousands or even hundreds of dollars to be able to raise money legally thru stocks and general solicitations to investors. Entrepreneurship must be decriminalized.

Protection of investors does not have to come at the cost of preventing lower and middle class Americans like me from being able to raise money legally. In the end it will also give more opportunities to investors, create new jobs, drive innovation, and generate more revenues for state and federal governments thru taxes of profits - not fines and fees.


I feel the government is illegally restricting my 1st Amendment rights of freedom of speech and unjustly persecuting an honest entrepreneur with a real and honest business investment.

To be honest, I am sure you do not share all my views, but I am sure we can agree on this important issue. Now I, as your constituent, ask for your help as my representative- not just for me but for thousands of entrepreneurs, for our economic recovery, and for the very dream of America. Please help in any and all ways that you can. Let us restore the promise that is America.

I would be happy to provide you or your aids with more information about my case, the challenges of an entrepreneur of modest means, and discuss some potential remedies that will safe guard against fraud without destroying the dreams of Americans who have a great idea and the determination and passion to see it come to fruition.

Sincerely, Kyle Schmierer, writer-producer-director www.Amadin.biz

PH: (602) 218-5057 Email: Amadin7@aol.com

 3-20-09